

By: Ellis

S.B. No. 1613

A BILL TO BE ENTITLED

AN ACT

relating to the acknowledgement, investigation, processing and payment of certain insurance claims.

SECTION 1. Section 1, Article 21.55, Insurance Code, is amended to read as follows:

Definitions

Sec. 1. In this article:

(1) "Claimant" means a person making a claim.

(2) "Business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

(3) "Claim" means a first party claim made by an insured or a policyholder under an insurance policy or contract or by a beneficiary named in the policy or contract that must be paid by the insurer directly to the insured or beneficiary; provided, however, that in no event shall a judgment or agreement establishing the liability of the insurer or any other person be required before a claim must be acknowledged, investigated, processed, or paid according to this article.

(4) "Insurer" means any insurer authorized to do business as an insurance company or to provide insurance in this state, including:

(A) a domestic or foreign, stock and mutual, life, health, or accident insurance company;

(B) a domestic or foreign, stock or mutual, fire

1 and casualty insurance company;

2 (C) a Mexican casualty company;

3 (D) a domestic or foreign Lloyd's plan insurer;

4 (E) a domestic or foreign reciprocal or insurance
5 exchange;

6 (F) a domestic or foreign fraternal benefit
7 society;

8 (G) a stipulated premium insurance company;

9 (H) a nonprofit legal service corporation;

10 (I) a statewide mutual assessment company;

11 (J) a local mutual aid association;

12 (K) a local mutual burial association;

13 (L) an association exempt under Article 14.17 of
14 this code;

15 (M) a nonprofit hospital, medical, or dental
16 service corporation, including a company subject to Chapter 20 of
17 this code;

18 (N) a county mutual insurance company;

19 (O) a farm mutual insurance company;

20 (P) a risk retention group;

21 (Q) a purchase group;

22 (R) a surplus lines carrier; and

23 (S) a guaranty association created and operating
24 under Article 21.28-C or 21.28-D of this code.

25 (5) "Notice of claim" means any notification in
26 writing to an insurer, by a claimant, that reasonably apprises the
27 insurer of the facts relating to the claim.

SECTION 2. Section 2, Article 21.55, Insurance Code, is amended to read as follows:

Acceptance or rejection of claims

Sec. 3. (a) Except as provided by Subsections (b) and (d) of this section, an insurer shall notify a claimant in writing of the acceptance or rejection of the claim not later than the 15th business day after the date the insurer receives all items, statements, and forms required by the insurer, in order to secure final proof of loss.

(b) If the insurer has a reasonable basis to believe that the loss results from arson, the insurer shall notify the claimant in writing of the acceptance or rejection of the claim not later than the 30th day after the date the insurer receives all items, statements, and forms required by the insurer.

(c) If the insurer rejects the claim, the notice required by Subsections (a) and (b) of this section must state the reasons for the rejection.

(d) If the insurer is unable to accept or reject the claim within the period specified by Subsection (a) or (b) of this section, the insurer shall notify the claimant, not later than the date specified under Subsection (a) or (b), as applicable. The notice provided under this subsection must give the reasons the insurer needs additional time.

(e) Not later than the 45th day after the date an insurer notifies a claimant under Subsection (d) of this section, the insurer shall accept or reject the claim.

(f) Except as otherwise provided, if an insurer delays

1 payment of a claim following its receipt of all items, statements,
2 and forms reasonably requested and required, as provided under
3 Section 2 of this article, for a period exceeding the period
4 specified in other applicable statutes or, in the absence of any
5 other specified period, for more than 60 days, or for more than 90
6 days if the claim is for uninsured or underinsured motorist
7 coverage, the insurer shall pay damages and other items as provided
8 for in Section 6 of this article.

9 (g) If it is determined as a result of arbitration or
10 litigation that a claim received by an insurer is invalid and
11 therefore should not be paid by the insurer, the requirements of
12 Subsection (f) of this section shall not apply in such case.

13 SECTION 3. Section 4, Article 21.55, Insurance Code, is
14 amended to read as follows:

15 Payment of claims

16 Sec. 4. If an insurer notifies a claimant that the insurer
17 will pay a claim or part of a claim under Section 3 of this article,
18 the insurer shall pay the claim not later than the fifth business
19 day after the notice has been made. If payment of the claim or part
20 of the claim is conditioned on the performance of an act by the
21 claimant, the insurer shall pay the claim not later than the fifth
22 business day after the date the act is performed, except that an
23 insurer may not request or require that the claimant establish by
24 judgment or agreement the liability of the insurer or any other
25 person as a condition to the insurer's duty to acknowledge,
26 investigate, process or pay a claim according to this article.
27 Surplus lines insurers shall pay the claim not later than the

1 twentieth business day after the notice or date the act is
2 performed.

3 SECTION 4. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2003.